

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

JIMMY STOKES,

Plaintiff,

v.

**NANCY A. BERRYHILL,
Acting Commissioner of the
Social Security Administration,**

Defendant.

Case No. CIV-17-234-CG

ORDER

On September 1, 2017, the Court entered an Order and a Judgment reversing the decision of the Acting Commissioner and remanding this case for further proceedings. *See* Doc. Nos. 17, 18. The parties filed a joint motion requesting the Court award Plaintiff Jimmy Stokes attorney’s fees pursuant to the Equal Access to Justice Act (“EAJA”), 28 U.S.C. § 2412. *See* Parties’ Joint Mot. Att’y Fees (Doc. No. 19) at 1. The parties have jointly notified the Court that they have stipulated to a request of \$5500.00 in EAJA fees in this matter. *See id.* at 1-2.

Having considered the parties’ request and the relevant record, the Court finds that: “(1) [P]laintiff is a ‘prevailing party’; (2) the position of the United States was not ‘substantially justified’; and (3) there are no special circumstances that make an award of fees unjust” in this case. *Hackett v. Barnhart*, 475 F.3d 1166, 1172 (10th Cir. 2007) (quoting 28 U.S.C. § 2412(d)(1)(A)). The Court therefore GRANTS Plaintiff’s request (Doc. No. 19) and awards fees in the amount of \$5500.00, with said amount to be paid

directly to Plaintiff and sent in care of Miles L. Mitzner, P.O. Box 5700, Edmond, OK 73083. If attorney's fees are also awarded under 42 U.S.C. § 406(b), Plaintiff's counsel shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

IT IS SO ORDERED this 9th day of March, 2018.



CHARLES B. GOODWIN
UNITED STATES MAGISTRATE JUDGE